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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,598	02/16/2001	Thomas Thaler	700-212RP	4386

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GREENBERG-TRAURIG
1750 TYSONS BOULEVARD, 12TH FLOOR
MCLEAN, VA 22102

EXAMINER

FERRIS, DERRICK W

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/785,598	Applicant(s) THALER ET AL.	
	Examiner Derrick W. Ferris	Art Unit 2663	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: _____.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see reasons below.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).
 13. ☐ Other: _____.

Ricky Q. Ngo
 RICKY Q. NGO
 SUPERVISORY PATENT EXAMINER

1/6/05

With respect to the rejection, applicant argues the priority of their provisional application 60/183,617 filed 2/18/2000. Thus it is assumed the merits of the rejection are proper. With the respect to priority, the examiner respectfully disagrees for the reasons stated below.

In summary, the examiner stated in the previous Office action that support for the claims as necessitated by applicant's amendment was found in their provisional application 60/246,012 filed 11/3/2000 (see e.g., figure 1 on page 4 of Appendix B) and not for provisional application 60/183,617 filed 2/18/2000. Applicant respectfully disagrees.

Before addressing priority in the provisional application above, the examiner feels it is worth mentioning the recited claimed subject matter in light of applicant's specification. In particular, note that the interpretation of recited claims in view of applicant's figures in their specification and the view given in their arguments for the provisional application are fundamentally different. It is the above differences the are not taught in the recited claims as mentioned below.

With respect to applicant's figures in their specification note that a reference time generator is taught e.g., as reference time source 104; a first node is taught e.g., as node 106; a first segment is taught e.g., as the first bus connecting nodes 106 and 108; a first bridge portal is taught e.g., as 110; a second bridge portal is taught e.g., as 109; a second network segment is taught e.g., as the bus connecting nodes 107 and 103; and a bridge is taught as 102. Note the bridge 102 shown in figure 1 which is not addressed by applicant and that a first node on a first segment delivers the network-wide signal as recited in some of the claims which is not taught by figures 11, 12, and 25. Also note that the above interpretation is, however, consistent with provisional application 60/246,012 filed 11/3/2000, which the examiner asserted applicant's priority.

In light of the above example, here is why applicant's allegation of support for priority is not supported for provisional application 60/183,617 filed 2/18/2000. First, applicant did not clearly address a first node, a first segment, a second segment, and a plurality of nodes on each segment. Thus the applicant did not provide enough information to formally address all the limitations in the claims. Furthermore, the examiner notes that none of the above limitations are taught with respect to figures 11 and 12 on page 15 and figure 25 on page 32 of applicant's appendix for their provisional application. Specifically, note that figure 11 shows networks and not segments and does not teach a plurality of nodes on each segment. Second, applicant appears to argue a first bridge portal as the lower switch in figure 11 (i.e., the lower box with an "X" in it as pointed out by applicant) and that a second bridge portal is the upper switch in figure 11 (i.e., the upper box with an "X" in it as pointed out by applicant). Given the above interpretation, no bridge is taught between the bridge portals (i.e., see bridge 102 in their figures). Specifically note that the switches are between a WAN (and not a core/edge network) and thus cannot be bridged. Thirdly, applicant appears to argue that figure 12 on page 15 in combination with figure 25 on page 31 teaches converting the network wide signal to a local time signal. First, figure 12 relates a redundant system where figure 11 is not a redundant system (i.e., note there are not two paths A and B for the reference time joined at a node in figure 11). Second, figure 12 is not the same as figure 25. In particular, figure 25 should be viewed with respect to figure 24 on page 31 and specifically note that only a TE leaf and NT node appear to support Ref Time Recovery as taught e.g., on pages 34 and 35 of the appendix. In addition, note that timing recovery is not the same as converting a network wide signal (emphasis added on the recited term converting). Finally, note that appendix does not teach timing recovery for the switches (i.e., the "X" boxes as pointed out by applicant), only the TE leaf and NT nodes shown in figure 24 on page 31 of the appendix. Fourthly, applicant does not teach a bridge and more specifically a bridge that synchronizes the network-inherent synchronization event between said first and second bridge portals. The above issue is a fundamental difference between applicant's interpretation of their specification and the interpretation given for their appendix. Furthermore, a low-order time and a high-order time are not in the same context as applicant's specification as previously pointed out by in applicant's arguments filed on 1/21/2005 on page 10 in view of applicant's specification on pages 4, line 18 to page 5, line 17.

In conclusion, applicant's claim of priority is not supported by provisional application 60/246,012 filed 11/3/2000 as mentioned above. Furthermore, applicant's argument does not appear to hold weight in further view of applicant's dependent claims and in particular claims 7 since the switches are not related to figure 12 and claims 22-23 since timing recovery is not a cycle_time and reference time is not a bus_time.